UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

TRANSMITTAL SHEET FOR OPINIONS FOR POSTING

Will this opinion be published?	No
Bankruptcy Caption:	In re Abraham Tofa
Bankruptcy No.:	23bk15233
Adversary Caption:	Corey Wiggins v. Abraham Tofa
Adversary No.:	24ap00044
Date of Issuance:	July 10, 2024
Judge:	Deborah L. Thorne
Appearances:	
Attorney for Abraham Tofa	Joel A. Schechter 53 W. Jackson Blvd, Suite 1522 Chicago, IL 60604
Corey Wiggins	*PRO SE*

Summary:

Plaintiff filed a motion seeking the Judge's recusal or disqualification due to allegations of bias against him for his pro se status and belief that rulings in the case had been decided incorrectly. HELD: The court denied recusal or disqualification based on *Liteky v. U.S.*, 510 U.S. 540 (1994). A party's perceived unfavorable rulings did not constitute bias.

United States Bankruptcy Court, Northern District of Illinois

JUDGE	Deborah L. Thorne	**Case No.**	23bk15233
DATE	July 10, 2024	**Adversary No.**	24ap00044
CASE TITLE	In re Abraham N. Tofa; Corey Wiggins v. Abraham N. Tofa		
TITLE OF ORDER	Order Denying Motion to Recuse		

STATEMENT

This matter comes on Plaintiff Corey Wiggins's Motion to Recuse. Abraham Tofa has objected to the Motion and the court, after reviewing the Motion of Plaintiff and hearing the Tofa objection, denies the Motion as provided in this order.

Background

Plaintiff has elected to pursue his complaint without the assistance of a lawyer. He filed an adversary proceeding in the Chapter 7 bankruptcy case filed by Abraham N. Tofa. The deadline to file a complaint objecting to the discharge of Tofa and the dischargeability of a debt against the Tofa estate was February 5, 2024. (Bankr. Dkt. No. 5.) The Clerk of the Court originally docketed the Plaintiff's complaint on February 7, 2024. After reviewing the pleadings and emails supporting Plaintiff's claims that the adversary complaint was timely filed, I ruled that the adversary complaint was filed timely on February 2, 2024. (Adv. Dkt. No. 10.)

Defendant filed a motion to dismiss the adversary complaint and after reviewing the pleadings and hearing the arguments of Plaintiff, I dismissed the complaint without prejudice to allow Plaintiff to file an amended complaint on or before May 22, 2024. On May 23, 2024, Plaintiff filed an amended complaint.[1]

[1] The amended complaint filed on May 23, 2024, was deemed timely filed due to Plaintiff providing date-stamped emails showing that he had emailed the amended complaint to the Pro Se Email on May 22, 2024. (Letter: Request to Investigate Potential Dilatory Tactics by Bankruptcy Clerk's Office and D & E Reporting, Dkt. No. 23.) Plaintiff also filed an amended complaint on May 29, 2024 (Am. Compl., Dkt. No. 25). It appears to be identical to that filed at Docket 22.

The amended complaint asked the court to "review" a copy of the 43 paragraph State Court Civil Complaint. (Am. Compl., ¶ 14, Adv. Dkt. No. 22.) The specific allegations contained in the State Court Civil Complaint were not made part of the amended complaint and as far as I am aware, no judgment was entered by the State Court. At a hearing on May 29, 2024, I explained to Plaintiff that his amended complaint was difficult to understand and stated that he should further amend so that the Defendant could understand the allegations and answer. I also advised Plaintiff that he must follow the Northern District of Illinois's Local Rules, as well as the Federal Rules of Civil Procedure and Federal Rules of Bankruptcy Procedure, which state that fraud must be plead with particularity. Finally, the court reminded the Plaintiff that as the court had previously stated, he should not simply incorporate his state court complaint but should plead specific allegations even if they had already been part of the State Court Civil Complaint.

Several days later, on only one day's notice, Plaintiff filed a motion for clarification of the court's directives regarding the order allowing the amended complaint. (Pl.'s Mot. for Clarification, Dkt. No. 27.) I denied the motion for clarification after a short court hearing explaining that the court cannot provide advice to the Plaintiff and once again acknowledging that an unrepresented party must still file pleadings in accordance with the Federal Rules of Civil Procedure and the Local Rules regarding notice.[2] *See Jones v. Phipps*, 39 F.3d 158, 163 (7th Cir. 1994) (acknowledging that while unrepresented civil litigants have some additional procedural protections compared to represented litigants, "pro se litigants are not entitled to a general dispensation from the rules of procedure or court imposed deadlines"). Plaintiff now seeks an order for me to recuse myself and to disqualify me from hearing anything further in this case. After reviewing Plaintiff's motion, I am denying it, as unhappiness with my rulings in this case does not support recusal under 28 U.S.C. § 455.

[2] Plaintiff previously explained to the court that he did not elect to employ counsel.

Discussion

Section 455 of Title 28 of the United States Code lists the basis of disqualification of a federal judge. Plaintiff argues that the relevant portions of the statute provide that disqualification is necessary when the judge's impartiality might reasonably be questioned, or where the judge has "a personal bias or prejudice concerning a party." 28 U.S.C. § 455. Each of the other disqualifying matters relate to bias that may have been created prior to hearing an individual matter, including but not limited to personal knowledge of the proceedings, private practice involving the matter in controversy, a child or spouse involved in the proceeding or holding a relationship with one of the parties. Disliking a ruling in the instant matter is absent, and Plaintiff's allegation of bias due to his pro se status refers only to rulings by this court. The court therefore finds no reason under Section 455 for the court to recuse.

Case law supports this view of section 455. The Supreme Court has addressed this issue, stating "judicial rulings alone almost never constitute a valid basis for bias or partiality in a motion for disqualification." *Liteky v. U.S.,* 510 U.S. 540, 555 (1994)*; see also Barnett v. City of Chicago*, 952 F. Supp. 1265, 1271 (N.D. Ill. 1997) ("[A]bsent evidence of some deep-seated antagonism making fair judgment impossible, judicial ruling is not adequate basis for recusal motion.").

Plaintiff has not pointed to anything other than the rulings in this case dismissing his two amended complaints and denying his motion for clarification of the court's directives—filed with only one day's notice—in his allegation of bias against him. These rulings do not show "deep-seated antagonism" against Plaintiff. On the contrary, this court has gone out of its way to understand the prior difficulties Plaintiff had in filing his initial complaint and ruled it timely filed. Additionally, dismissal of the complaints has been without prejudice, allowing Plaintiff to file amended complaints.

The court is mindful that pro se litigants' filings are to be construed liberally. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007). The rules of procedure, however, do still apply. *See Jones*, 39 F.3d at 163. Plaintiff will continue to be given the deference required, but this court must also ensure that the rules of procedure are followed.

Finally, Plaintiff is unhappy with D&E Reporting and apparently its ability to furnish transcripts at the rate that Plaintiff would like. D&E is not under the control of this court, and it has no ability to impact when D&E furnishes transcripts.

Conclusion

The motion seeking recusal and disqualification is denied.

ENTER:

Dated: July 10, 2024

Honorable Deborah L. Thorne
United States Bankruptcy Judge